

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

JASON M. RUSSELL, SR.,)	CASE NO. 1:09 CV 2134
)	
Plaintiff,)	JUDGE CHRISTOPHER A. BOYKO
)	
v.)	
)	<u>MEMORANDUM OF OPINION</u>
STATE OF OHIO,)	<u>AND ORDER</u>
)	
Defendant.)	

On September 15, 2009, plaintiff pro se Jason M. Russell, Sr., an inmate at the Lebanon Correctional Institution, filed a document entitled "Motion to Set Aside and Vacate Default Judgment," citing, inter alia, 42 U.S.C. § 1983. The document asserts plaintiff's conviction in the Ohio Court of Common Pleas was the result of "fraud and misconduct."

A district court is expressly required to dismiss any civil action filed by a prisoner seeking relief from a governmental officer or entity, as soon as possible after docketing, if the court concludes that the complaint fails to state a claim upon which relief may be granted, or if the plaintiff seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. §1915A; Siller v. Dean, No. 99-5323, 2000 WL 145167 , at *2 (6th Cir. Feb. 1, 2000).

Plaintiff is essentially challenging the validity of his state conviction and resulting current confinement. When a prisoner challenges "the very fact or duration of his physical imprisonment, ... his sole federal remedy is a writ of habeas corpus." Preiser v. Rodriguez, 411 U.S. 475 (1973).

Accordingly, this action is dismissed under 28 U.S.C. § 1915A. Further, the court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

S/Christopher A. Boyko
CHRISTOPHER A. BOYKO
UNITED STATES DISTRICT JUDGE

November 3, 2009